



**In the
Indiana Supreme Court**

IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR CLAY COUNTY)

Case No. 11S00-1110 -MS- 628

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Clay Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E), selection of special judges in criminal cases in accordance with Ind. Criminal Rule 13, and regulation of court reporter services in accordance with Ind. Administrative Rule 15. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Clay Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR11-AR-02, LR11-CR2.2-2, and LR11-AR15-1 comply with the requirements of Ind. Administrative Rule 1(E), Ind. Criminal Rule 13, and Ind. Administrative Rule 15, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Clay County Local Rules, LR11-AR-02, LR11-CR2.2-2, and LR11-AR15-1, set forth as an attachment to this Order, are approved effective January 1, 2012, provided further that the rules shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website at least thirty (30) days prior to taking effect.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. J. Blaine Akers, Clay Superior Court, 609 East National Avenue, Brazil, IN 47834-2659; the Hon. Joseph Trout, Clay Circuit Court, 609 East National Avenue, Brazil, IN 47834-2659; to the Clerk of the Clay Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Clay Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment

for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website at least thirty (30) days prior to taking effect.

DONE at Indianapolis, Indiana, this 19th day of October, 2011.

R. T. Shepard
Randall T. Shepard
Chief Justice of Indiana

(A) **Criminal cases** shall be filed pursuant to LR11-CR2.2-2 and as follows:

- (1) **Murder and A, B, and C felony cases:** The Clerk shall equally assign and allocate between the Clay Circuit Court and the Clay Superior Court criminal cases identified as murder (MR); and all felonies filed as A(FA), B(FB) and C(FC).
- (2) **D felony cases:** The Clerk shall equally assign and allocate between the Clay Circuit Court and the Clay Superior Court all criminal cases identified as D felonies(FD); **except that no felony cases involving operating under the influence of alcohol or drugs shall be filed in the Clay Circuit Court.**
- (3) **Post Conviction Relief cases:** The Clerk shall assign and allocate any post-conviction relief cases to the original court of criminal jurisdiction for which the post-conviction relief is based.
- (4) **A,B and C misdemeanor cases:** The Clerk shall equally assign and allocate between the Clay Circuit Court and the Clay Superior Court all criminal cases identified as A,B and C misdemeanors (CM); **except that no misdemeanor cases involving operating under the influence of alcohol or drugs shall be filed in the Clay Circuit Court.**
- (5) **Miscellaneous Criminal cases:** The Clerk shall equally assign and allocate between the Clay Circuit Court and Clay Superior Court all criminal cases identified as miscellaneous criminal (MC).

(B) **Traffic and Ordinance Violation cases:** The Clerk shall assign all cases designated traffic (IF) and ordinance violation (OV) to the Clay Superior Court.

(C) **Juvenile cases:** The Clerk shall assign all cases designated juvenile cases identified as JC, JD, JM, JS, JP, and JT to the Clay Circuit Court.

(D) **Estate/Guardianship/Trusts/Adoption:** The Clerk shall assign all cases designated as estate (ES, EU, EM), guardianship (GU), trusts (TR) and adoption (Ad and AH) to the Clay Circuit Court.

(E) **Other Civil cases shall be filed as follows:**

- (1) The Clerk shall equally assign and allocate between the Clay Circuit Court and the Clay Superior Court other civil cases identified as mortgage foreclosure (MF), civil collection (CC), dissolution of marriage/separation (DR); miscellaneous civil (MI), court business (CB); mental health (MH) and adult protective orders (PO).

- (2) The Clerk shall assign all plenary (PL) cases to the Clay Superior Court arising out of counterclaims initially filed in the small claims division of the Clay Superior Court.
- (3) The Clerk shall assign and allocate civil cases identified as civil tort (CT) as follows:
 - (a) Two thirds to Clay Circuit Court;
 - (b) One third to Clay Superior Court
- (4) The Clerk shall assign all cases identified as reciprocal support (RS) to the Clay Circuit Court.
- (5) The Clerk shall assign all cases identified as small claims (SC) to the Clay Superior Court.

As in the past, Clay County judges shall continue to cooperate with one another to insure the effective and efficient administration of justice by assisting one another with hearings, should they be available to do so.

LR11-CR2.2-2 Criminal Case Assignment/Re-assignments--CR 2.2, CR 12 and CR 13

(A) All criminal cases shall be assigned and allocated in the Clay Circuit and Superior courts in accordance with LR-11-AR-01-02.

(B) A judge of the Circuit or Superior courts, by appropriate order entered in the record of judgments and orders, may transfer and reassign a case to any other court of record in the county with jurisdiction to hear the charged offense subject to acceptance by the receiving court.

(C) When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be assigned to the court from which the dismissal was taken.

(D) In the event additional charges are filed against a criminal defendant subsequent to the assignment of the case, all such additional charges shall be assigned to the court of initial assignment.

(E) Once a criminal case is assigned, it may be re-assigned under Criminal Rule 12 equally and randomly as follows:

- (a) Any judge or magistrate of the Vigo circuit and superior courts;
- (b) Any judge of the Putnam circuit and superior courts;
- (c) The judge of the Owen Circuit Court;
- (d) The judge of the Parke Circuit Court;
- (e) Any judge of the Greene superior and circuit courts;
- (f) Any judge or magistrate of the Sullivan circuit and superior courts

(F) In the event the judge presiding in a felony or misdemeanor case concludes that special circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, the presiding judge may request the Indiana Supreme Court make such appointment.

LR11-AR15-6 Court Reporter Services

(A) Definitions The following definitions shall apply under this local rule:

- (1) A Court Reporter is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and other device used for recording and storing, and transcribing electronic data.
- (3) Work space means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) Page means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) Recording means the electronic, mechanical, stenographic or other recording made as required by Indiana rule of Trial Procedure 74.
- (6) Regular hours worked means those hours which the court is regularly scheduled to work during any given workweek. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each workweek.
- (7) Gap hours worked means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- (8) Overtime hours worked means those hours worked in excess of forty (40) hours per workweek.
- (9) Work week means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (10) Court means the particular court for which the court reporter performs services. Court may also mean all of the courts in Clay County.
- (11) County indigent transcript means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (12) State indigent transcript means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (13) Private transcript means a transcript, including but not limited to a deposition transcript that is paid for by a private party.
- (14) Expedited transcript means a transcript which is requested to be prepared within three (3) working days or less.

(B) Salaries and Per Page Fees

- (1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters that outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.
- (2) The maximum per page fee a court reporter may charge for the preparation of a county or state indigent transcript shall be four dollars (\$4.00); the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

- (3) The maximum per page a court reporter may charge for the preparation of a private transcript shall be \$4.00 per page for a private regular transcript. If a court reporter is requested to prepare an expedited transcript, the maximum page fee shall be \$6.50 when the transcript must be prepared within twenty-four (24) hours or less; \$5.00 when the transcript must be prepared within three (3) working days. A minimum transcript fee shall be \$35.00.
- (4) In light of the various additional requirements under the new appeal process, the court shall provide binders for said transcripts so prepared.
- (5) In the event a court reporter prepares a transcript using county owned equipment, the court reporter shall provide the paper at the court reporter's own expense and provide copies of the transcript using an outside copying service at the court reporter's own expense.
- (6) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent, or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

(C) Private Practice

- (1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
 - (a) The reasonable market rate for the use of equipment, workspace and supplies.
 - (b) The method by which records are to be kept for the use of equipment, work space and supplies; and
 - (c) The method by which the court reporter is to reimburse the court for the use of the equipment, workspace and supplies.
- (2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.